

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA  
MACON DIVISION**

**ZACHARY GARDNER,**

**Plaintiff,**

**V.**

**KENNETH COWENS, *et al.*,**

**Defendants.**

:  
:  
:  
:  
:  
:  
:  
:  
:  
:  
:

**NO. 5:23-cv-00455-TES-MSH**

**ORDER OF DISMISSAL**

Plaintiff Zachary Gardner, a prisoner in Macon State Prison in Oglethorpe, Georgia, filed a *pro se* 42 U.S.C. § 1983 complaint. Compl., ECF No. 1. Plaintiff also filed a motion for leave to proceed *in forma pauperis*. Mot. to Proceed *In Forma Pauperis*, ECF No. 3. Because the documentation for Plaintiff's motion was out of date, the United States Magistrate Judge ordered Plaintiff to file an updated motion to proceed *in forma pauperis*. Order, ECF No. 4. The Magistrate Judge gave Plaintiff fourteen days to submit his new motion to proceed *in forma pauperis* and cautioned Plaintiff that his failure to comply could result in the Court dismissing this case. *Id.*

More than fourteen days passed after the Magistrate Judge entered that order, and Plaintiff did not file a new motion for leave to proceed *in forma pauperis* or otherwise respond to the order. As a result, the Magistrate Judge ordered Plaintiff to show cause why the Court should not dismiss this case based on his failure to comply with the earlier order. Order to Show Cause, ECF No. 5. The Magistrate Judge gave Plaintiff another

fourteen days to respond and cautioned him that his failure to do so would likely result in the Court dismissing this action. *Id.*

More than fourteen days have now passed since the Magistrate Judge entered the show cause order, and Plaintiff has not responded to that order. Because Plaintiff has repeatedly failed to comply with previous orders and to prosecute his case, the Court **DISMISSES** his complaint **without prejudice**. *See* Fed. R. Civ. P. 41(b); *Brown v. Tallahassee Police Dep't*, 205 F. App'x 802, 802 (11th Cir. 2006) (per curiam) (first citing Fed. R. Civ. P. 41(b); and then citing *Lopez v. Aransas Cnty. Indep. Sch. Dist.*, 570 F.2d 541, 544 (5th Cir. 1978)) (“The court may dismiss an action *sua sponte* under Rule 41(b) for failure to prosecute or failure to obey a court order.”).

**SO ORDERED**, this 28th day of February, 2024.

S/ Tilman E. Self, III  
**TILMAN E. SELF, III, JUDGE**  
**UNITED STATES DISTRICT COURT**